

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	DATE: October 3, 2003
)	
Arthur H. Rodgers)	DOCKET NO.: 03F-008
Special Assistant)	
Office of Planning)	
378 Belmont Street, #10)	
Oakland, California 94610)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of General Counsel following a determination by its Public Information Records Management Division, that pursuant to the D.C. Code §1-1106.02 (2001 Edition), Arthur H. Rodgers, Special Assistant, Office of Planning, failed to timely file, a Financial Disclosure Statement for calendar year 2002, on or before May 15, 2003 as required by D.C. Official Code §1-1106.02 and also failed to file on or before the OCF sanctioned extended filing deadline of June 19, 2003.

By Notices of Hearing, Statements of Violations and Orders of Appearance dated August 5, 2003, August 14, 2003 and September 2, 2003, OCF ordered Arthur H. Rodgers (hereinafter respondent), to appear at scheduled hearings on August 14, 2003, August 27, 2003 and September 12, 2003 and show cause why he should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2002, on or before June 19, 2003.

On September 15, 2003, OCF received an affidavit from respondent stating he had just received the Notice of Hearing, Statement of Violations and Order of Appearance dated August 14, 2003 on September 10, 2003; that he had been out of the country since June 2003; and that he is just recently receiving mail forwarded from his previous address, 3060 – 16th Street, NW, #605, Washington, DC 20009. Respondent

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further stated that he resigned his position with the District Government in May 2003, and that he erroneously assumed he had no further obligation to complete a Financial Disclosure Statement (FDS). Respondent asserted he did not have a copy of the FDS form, and that he did not have any ownership or other interests with any business that conducts business with the District of Columbia. Respondent enclosed a copy of the OCF's envelope mailed to his former Washington, DC address, which contained his forwarding address of 378 Belmont Street, #10, Oakland, California 94610. On September 16, 2003, respondent contacted OCF by telephone to inquire of the receipt of his affidavit. Respondent's affidavit had been received by OCF, and respondent was instructed to file a final FDS online as soon as possible. On September 19, 2003, OCF received a copy of respondent's fully executed FDS, via facsimile, which was filed online on September 16, 2003. On September 22, 2003, OCF received respondent's original, fully executed FDS.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent resigned his position with the District Government in May 2003.
2. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2002, on or before June 19, 2003.
3. Respondent filed a Financial Disclosure Statement with OCF on September 16, 2003 upon notification on September 16, 2003 of the requirement to file a final FDS.
4. OCF mailed delinquency notices to respondent at his address of record, which was provided by his agency.
5. Respondent's address of record was incorrect.
6. Respondent's explanation for the filing delinquency is credible in that the address was incorrect due his agency's failure to provide OCF with a forwarding address.
7. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's explanation for failing to timely file constitutes good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of a fine in this matter.

Date

Jean Scott Diggs
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine be hereby suspended in this matter.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

Rose Rice
Legal Assistant

NOTICE

Pursuant to 3DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.